

**CONSOLIDATED, AMENDED AND RESTATED  
DECLARATION  
FOR  
SOMERSET ESTATES**

<b>RECITALS</b> .....	1
Article 1. <b>DEFINITIONS</b> .....	2
1.1    Act .....	2
1.2    Allocated Interests .....	2
1.3    Annual Assessment.....	2
1.4    Architectural Control Committee (ACC) .....	2
1.5    Architectural and Landscaping Standards .....	2
1.6    Articles of Incorporation .....	2
1.7    Assessments .....	2
1.8    Association .....	2
1.9    Bylaws .....	2
1.10   Common Areas .....	2
1.11   Common Expenses .....	2
1.12   Community .....	3
1.13   Declaration .....	3
1.14   Director .....	3
1.15   Documents .....	3
1.16   Dwelling Unit .....	3
1.17   Executive Board .....	3
1.18   Good Standing .....	3
1.19   Guest .....	3
1.20   Improvements .....	3
1.21   Lot .....	4
1.22   Manager .....	4
1.23   Member .....	4
1.24   Mortgage.....	4
1.25   Mortgagee .....	4
1.26   Notice and Hearing .....	4
1.27   Owner .....	4
1.28   Person.....	4
1.29   Plats .....	4
1.30   Property .....	4
1.31   Rules .....	4
1.32   Special Assessments .....	4
1.33   Specific Assessments .....	4
Article 2. <b>THE COMMUNITY</b> .....	4
2.1    The Community .....	4
2.2    The Association .....	5
2.3    Number of Lots .....	5
2.4    Identification of Lots .....	5
Article 3. <b>THE ASSOCIATION AND ITS MEMBERS</b> .....	5
3.1    Function of Association .....	5
3.2    Membership .....	5
3.3    Voting Rights .....	5
3.4    Association Powers and Duties .....	5

Article 4.	MAINTENANCE .....	7
4.1	Association Maintenance of Common Areas .....	7
4.2	Maintenance of Drainage/Storm Sewer Facilities .....	7
4.3	Lots .....	7
4.4	Right of Access .....	7
4.5	Owner's Failure to Maintain; Notice of Noncompliance .....	8
4.6	Repairs Resulting from Negligence .....	8
Article 5.	ASSESSMENT AND COLLECTION OF COMMON EXPENSES .....	8
5.1	Purpose of Common Expenses .....	8
5.2	Apportionment of Common Expenses .....	8
5.3	Annual Assessments .....	8
5.4	Special Assessments .....	8
5.5	Common Expenses Attributable to Fewer than all Lots; Specific Assessments .....	9
5.6	Lien .....	9
5.7	Budget Adoption and Ratification .....	10
5.8	Certification of Payment of Assessments .....	11
5.9	Effect of Nonpayment of Assessments .....	11
5.10	Acceleration of Assessments .....	11
5.11	No Waiver of Liability for Common Expenses .....	11
5.12	Personal Liability of Owners .....	12
5.13	Surplus Funds .....	12
Article 6.	RESTRICTIONS ON OCCUPANCY AND USE .....	12
6.1	Restrictions Imposed .....	12
6.2	Occupancy and Use Restrictions .....	12
6.3	Architectural and Site Restrictions .....	15
Article 7.	ARCHITECTURAL CONTROL COMMITTEE .....	17
7.1	Written Approval of Plans Required .....	17
7.2	Approval of Governmental Entities .....	17
7.3	Guidelines, Standards, Rules, and Procedures .....	18
7.4	Membership of Committee .....	18
7.5	Procedures.....	18
7.6	Vote and Review .....	18
7.7	Records and Certificate of Compliance .....	18
7.8	Liability .....	18
7.9	Variances .....	19
7.10	Waivers .....	19
Article 8.	INSURANCE .....	19
8.1	Coverage .....	19
8.2	Property Insurance .....	19
8.3	Liability Insurance .....	19
8.4	Mandatory Provisions .....	19
8.5	Deductibles .....	20
8.6	Fidelity Insurance .....	20
8.7	Owner Policies .....	20
8.8	Workers Compensation Insurance .....	21

8.9	Directors' and Officers' Liability Insurance .....	21
8.10	Other Insurance .....	21
8.11	Procedures .....	21
8.12	Insurance Proceeds .....	21
8.13	Damage to Property .....	21
Article 9.	EASEMENTS AND LICENSES .....	22
9.1	Easements and Licenses .....	22
9.2	Easements for Executive Board .....	22
9.3	Emergency Easements .....	22
9.4	Easement for Encroachments .....	22
9.5	Easements for Drainage and Utilities .....	22
9.6	Irrigation Ditch Easements and Rights of Way.....	22
Article 10.	DURATION AND AMENDMENT .....	22
10.1	Duration .....	22
10.2	Amendment .....	23
Article 11.	TERMINATION .....	23
Article 12.	MORTGAGE PROTECTION .....	23
12.1	Rights of First Mortgage Holders .....	23
12.2	Title Taken by First Mortgage Holder .....	23
Article 13.	CONDEMNATION .....	24
13.1	Rights of Owners .....	24
Article 14.	ALTERNATIVE DISPUTE RESOLUTION .....	24
14.1	Statement of Clarification .....	24
14.2	Alternative Method for Resolving Disputes .....	24
14.3	Claims .....	24
14.4	Exemption from Claim .....	24
14.5	Notice of Claim .....	25
14.6	Timely Initiation .....	25
14.7	Right to be Heard .....	25
14.8	Mediation .....	25
14.9	Arbitration .....	26
Article 15.	MISCELLANEOUS .....	26
15.1	Captions .....	26
15.2	Gender .....	26
15.3	Waiver .....	26
15.4	Severability.....	26
15.5	Conflicts Between Act and Documents .....	26
15.6	Registration of Mailing Address .....	27
15.7	Enforcement .....	27
15.8	Indemnification .....	27
	EXHIBIT A: LEGAL DESCRIPTION OF THE COMMUNITY .....	29
	EXHIBIT B: DESCRIPTION OF COMMON AREAS .....	30
	EXHIBIT C: ARBITRATION PROCEDURES .....	31

**CONSOLIDATED, AMENDED AND RESTATED DECLARATION  
FOR  
SOMERSET ESTATES**

This Consolidated, Amended and Restated Declaration for Somerset Estates (“Amended Declaration”) is executed and made effective on the 14<sup>th</sup> day of August, 2018.

**RECITALS**

This Amended Declaration is made in contemplation of the following facts and circumstances:

A. On December 10, 1992 Lot Covenants (“Original Somerset Estates Lot Covenants”) were recorded at Reception number 1247765 in the offices of the Clerk and Recorder in Boulder County, Colorado, and were re-recorded on January 6, 1993 at Reception number 1254789 in the offices of the Clerk and Recorder in Boulder County, Colorado.

B. On December 10, 1992 Homeowners Covenants (“Original Somerset Estates Homeowners Covenants”) were recorded at Reception number 1247766 in the offices of the Clerk and Recorder in Boulder County, Colorado.

C. Somerset Estates is governed, operated, and managed by the Somerset Estates Homeowners Association, Inc., a Colorado nonprofit corporation (“Association”).

D. Somerset Estates includes the real property described in Exhibits A and B attached hereto and incorporated herein by this reference.

E. Somerset Estates is subject to the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101 *et seq.* (“CCIOA”). The Members of the Association, pursuant to 38-33.3-101 *et seq.*, C.R.S. have voted to adopt this Consolidated, Amended and Restated Declaration for Somerset Estates.

Now therefore, the Consolidated, Amended and Restated Declaration for Somerset Estates are hereby adopted, and the real property in Boulder County, Colorado described in Exhibits A and B attached and incorporated herein, is submitted to the provisions of this Consolidated, Amended and Restated Declaration for Somerset Estates, and the real property described in Exhibits A and B shall be held and conveyed subject to the following terms, covenants, conditions, and restrictions, which shall run with the property and be binding on all parties having any right, title, or interest therein or any part thereof, their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

This Consolidated, Amended and Restated Declaration for Somerset Estates (“Declaration”) shall supersede in their entirety the Original Somerset Estates Homeowners Covenants and the Original Somerset Estates Lot Covenants.

Article 1.  
DEFINITIONS

1.1 Act. The Colorado Common Interest Ownership Act as set forth in C.R.S. 38-33.3-101, as it may be amended from time to time, as it applies to the Community.

1.2 Allocated Interests. The Common Expense liability and votes in the Association are allocated to the Lots in the Community. The Common Expense liability for each Lot shall be a fraction, the numerator of which is one and the denominator of which is 89 as of the date of recording this Declaration, and which may be adjusted as provided in Section 6.2.14 below. The Owners of each Lot shall be entitled to membership interests representing one vote for each Lot owned in the Community.

1.3 Annual Assessment. Annual Assessments levied to fund Common Expenses for the general benefit of all Lots.

1.4 Architectural Control Committee (ACC). The committee appointed by the Executive Board to review and approve or disapprove plans for Improvements submitted by any Owner, as more fully provided in Articles 6 and 7 of this Declaration.

1.5 Architectural and Landscaping Standards. Those architectural and design guidelines and standards adopted by the ACC and approved by the Executive Board, as they may be amended from time to time.

1.6 Articles of Incorporation. The Articles of Incorporation of Somerset Estates Homeowners Association, Inc. filed with the Colorado Secretary of State on March 30, 2018, as they may be amended from time to time.

1.7 Assessments. Any Annual Assessment, Neighborhood Assessment, Special Assessment, Specific Assessments, or any other fees, fines, charges and amounts chargeable to a Lot or an Owner under this Declaration.

1.8 Association. The Somerset Estates Homeowners Association, Inc. a Colorado Nonprofit corporation.

1.9 Bylaws. The Bylaws of the Association, as they may be amended from time to time.

1.10 Common Areas. Any real property within the Community owned or leased by the Association, or which the Association has possessory rights to. Common Areas does not include any Lot owned by the Association. The Common Areas are described on Exhibit B attached hereto and incorporated herein by this reference.

1.11 Common Expenses. The actual expenses or liabilities incurred by or on behalf of the Association the Executive Board finds necessary or appropriate, including reserves. These expenses include:

1.11.1 Expenses of administration, maintenance, repair or replacement of any Common Areas or property owned or maintained (under an easement, right of way, license or contract) by the Association;

1.11.2 Expenses declared to be Common Expenses by the Documents or by the Act;

1.11.3 Such reasonable reserves as may be established by the Association for repair, replacement or addition to the Common Areas or any other real or personal property acquired or held or maintained (under an easement, license or contract) by the Association.

1.12 Community. The real property subject to this Declaration and known as Somerset Estates.

1.13 Declaration. This document, including any amendments and plats.

1.14 Director. A member of the Executive Board.

1.15 Documents. This Declaration and the Plat, the Articles of Incorporation, the Bylaws, and Architectural and Landscaping Standards, and the Rules as they be amended from time to time. Any exhibit, schedule or certification accompanying a Document is a part of that Document.

1.16 Dwelling Unit. The residence constructed on each Lot within the Community and any replacement thereof, including the patio, deck, basement and garage, if applicable.

1.17 Executive Board. May sometimes be referred to as the Board of Directors or the Board. The Executive Board of the Association duly elected pursuant to the Bylaws of the Association, which shall have the power and authority to act on behalf of the Association in all matters as more fully set forth herein and in the Articles of Incorporation and Bylaws of the Association.

1.18 Good Standing. A Member that is no more than thirty (30) days late in the payment of any Assessments, and who has none of his, her or its membership privileges suspended.

1.19 Guest. (a) Any person who resides with an Owner within the Community; (b) a guest or invitee of an Owner; or (c) an occupant or tenant of a Dwelling Unit within the Community, and any member of his or her household, invitee or cohabitant of any such person, or the agent, employee, invitee, licensee or tenant of the occupant or tenant.

1.20 Improvements. Any exterior construction, structure, fixture, landscaping or facilities existing or to be placed on a Lot in the Community, including but not limited to: buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, painting or other finish materials on any visible structure, additions, walkways, garages, carports, driveways, fences, screening walls, retaining walls, stairs, decks, streets, drainage facilities, landscaping (including any material change in slope, pitch or drainage pattern), hedges, windbreaks, plantings, trees, shrubs, sod, ground cover, exterior light fixtures, poles, permanently installed basketball stands, trampolines, or other recreational or sporting equipment, signs, antennas, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment. Improvement shall also mean and include, without limitation: (a) the destruction by voluntary action or the abandonment of any building, structure or other improvement; (b) the excavation, filling or similar disturbance of the surface of the land; (c) the clearing, marring, defacing or damaging of trees, shrubs or other growing things; and (d) any change or alteration to any of the above described Improvements, including without limitation, any change of color, texture or exterior appearance, of any previously approved Improvement.

1.21 Lot. Each platted lot which is a physical portion of the Community, other than Common Areas, designated for separate ownership or occupancy, the boundaries of which are described on the Plat.

1.22 Manager. A person or firm employed or engaged to perform management services for the Community and the Association.

1.23 Member. All Owners of a Lot, collectively.

1.24 Mortgage. A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot.

1.25 Mortgagee. The holder or beneficiary of a Mortgage.

1.26 Notice and Hearing. The right of an Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to be heard thereon, as provided for herein, or in the Bylaws.

1.27 Owner. Any Person who is the owner of record of the fee simple title to any Lot, but not a Mortgagee.

1.28 Person. A natural person, corporation, trust, partnership, limited liability company, association, joint venture, government subdivision or agency or other legal or commercial entity or combination thereof.

1.29 Plats. The plats for the Community filed in the office of the Boulder County Clerk and Recorder, Colorado, at Reception No. 1004497, Plan File P-23 F-4 #36, 37, Film 1595; Reception No. 1203364 Plan File P-27 F-2 #42, 43, 44, and 45, Film No. 1746; Reception No. 1406740 Plan File P-31 F-1 #44, Film No. 1952; Reception No. 1434850 Plan File P-31 F-4 #18, Film No. 1983; and Reception No. 1406742 Plan File P-31 F-1 #45, Film No. 1952, as such plats may be amended from time to time. Any one of these Plats is singularly referred to as a "Plat" as the context requires.

1.30 Property. The real property described in Exhibit A.

1.31 Rules. Rules, regulations, procedures, policies and guidelines, however denominated, adopted, amended or repealed by the Executive Board from time to time, for the regulation and management of the Community, including Common Areas and Lots.

1.32 Special Assessments. Any Assessment levied and assessed against all Owners or some Owners in accordance with Section 5.4.

1.33 Specific Assessments. Charges against a specific Owner and his, her or its Lot as provided in Article 5 below.

## Article 2. THE COMMUNITY

2.1 The Community. The name of the Community is Somerset Estates. It is a planned community.



2.2 The Association. The name of the Association is Somerset Estates Homeowners Association, Inc. It is a Colorado nonprofit corporation.

2.3 Number of Lots. The Community contains 89 Lots.

2.4 Identification of Lots. The identification number of each Lot is shown on the Plats, and the boundaries of each Lot are located as shown on the Plats.

### Article 3.

#### THE ASSOCIATION AND ITS MEMBERS

3.1 Function of Association. The Association is the entity responsible for management, maintenance, operation, and control of the Common Areas. The Association also has primary responsibility for enforcing the Documents, and to provide for the preservation of values in the Community and to provide for the general health, safety and welfare of its residents.

3.2 Membership. There is one class of membership in the Association. The Owners of every Lot shall hold one membership interest in the Association and all Members of the Association at all times shall consist exclusively of Owners. Membership shall terminate on transfer of title to the Lot by the Owner, and may not be separated from the ownership of a Lot. There shall be only one membership per Lot. Co-Owners are jointly and severally obligated to perform the responsibilities of an Owner. The membership rights of an Owner that is not an individual may be exercised by any officer, director, partner, trustee, or manager, or by an individual the Owner designates in writing.

3.3 Voting Rights. Each Member shall be entitled to one vote for each Lot owned. If only one of the multiple Owners of a Lot is present at a meeting of the Association, such Owner is entitled to cast the vote allocated to that Lot. If more than one of the multiple Owners is present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority interest of the Owners. There is majority agreement if any one of the multiple Owners casts the vote without protest being made promptly to the Person presiding over the meeting by any of the other Owners of the Lot. In the event that more than one such co-Owner casts a vote, the vote allocated to the Lot shall be suspended and excluded from the final vote tally on the matter on which a vote is being taken. No Member shall be entitled to vote in any matter unless that Member is in Good Standing with the Association.

#### 3.4 Association Powers and Duties.

3.4.1 The Association may exercise any right or privilege given to it expressly, or by reasonable implication, by the Documents, the Act or the Colorado Revised Nonprofit Corporation Act, or take action reasonably necessary to effectuate any such right or privilege. Except as otherwise provided in the Documents or by law, the Executive Board may act in all instances on behalf of the Association and exercise the Association's rights and powers without a vote of the membership.

3.4.2 The Association shall have the power to enforce the provisions of the Documents, and shall take such action as the Executive Board deems necessary or desirable to cause compliance by Owners and Guests. The Executive Board may impose sanctions for violations of the Documents and may establish a range of penalties for different violations, except that no fine

may be imposed without first providing Notice and Hearing.

3.4.3 The Association shall have the exclusive power to maintain, or cause to be maintained, the Common Areas, and it shall exclusively be responsible for management, operation, and control of the Common Areas to the extent of the funds available to it through Assessments and any other sources, and in the judgment and discretion of the Executive Board to prioritize spending for the short- and long-term benefit of the Community. No Owner or Guest shall make any addition or other alteration to any portion of the Common Areas, no matter how minor, without the express prior written consent of the Executive Board, which consent may be withheld in the Executive Board's sole and absolute discretion.

3.4.4 Without in any way limiting the scope of the foregoing provisions of this Section 3.4, the Association shall have the following powers and duties:

- (1) adopt and amend Rules as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Lots or the Common Areas, and otherwise for the benefit of the Community and the Owners. Any such Rules shall be non-discriminatory and reasonable;
- (2) enter into contracts and incur liabilities;
- (3) grant easements, leases, licenses and concessions through or over the Common Areas;
- (4) maintain insurance as required in accordance with this Declaration;
- (5) prepare, and submit to the Members, annual budgets for revenues, expenditures and reserves for the Association as elsewhere provided in this Declaration;
- (6) levy and collect Assessments as elsewhere provided in this Declaration;
- (7) borrow money and assign its future income, including its right to receive Assessments;
- (8) dedicate, transfer, or encumber any right, title or interest in the Common Areas, subject in each case to first obtaining consent of Members to whom at least sixty-seven percent (67%) of the votes are allocated;
- (9) keep and provide the Association's records in compliance with the Act;
- (10) take enforcement action to ensure compliance with the Documents, including exercising self-help or taking action to abate any violation of the Governing Documents, levying Specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Documents, or taking other action to abate a violation on the Common Areas or a violation on a Lot in an emergency situation, and bringing action at law or in equity to enforce any violation or to recover monetary damages or both;
- (11) suspend the right of a Member to exercise privileges, such as the right to vote, (a) for any period during which any Assessment or other charge against the Member's Lot remains delinquent, and (b) for a period not to exceed sixty (60) days for a single violation of the

Documents, or for a longer period in the case of any continuing violation;

(12) institute, defend, settle, or intervene on the Association's behalf or on behalf of two or more Owners, in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Areas, enforcement of the Documents, or any other civil claim or action. However, the Documents shall not be construed as creating any independent legal duty to institute any legal or other action or proceeding on behalf of or in the name of the Association or the Members.

#### Article 4. MAINTENANCE

4.1 Association Maintenance of Common Areas. The Association shall have the exclusive power to manage, operate, insure, maintain, repair and replace all of the Common Areas, and any drainage structure or facility or other public improvements required by local governmental entities. The Association shall be responsible for all maintenance specified as the responsibility of the Association (or its predecessor) on the Plats. Without limiting the scope of the foregoing, the Association shall operate, maintain and repair all structures, signage, landscaping, paths, irrigation and water systems, and related facilities and amenities now or hereafter constructed, installed or planted on the Common Areas.

4.2 Maintenance of Drainage/Storm Sewer Facilities. The Association shall establish a regular maintenance program for the drainage and storm sewer facilities (including inlet and outlet facilities therefor) located in or on the Lots and in or on the Common Areas. The Association shall cause routine safety inspections to be made of the drainage and storm sewer facilities, and promptly make reasonable corrections to unsafe conditions. Complaints of unsafe conditions or of conditions requiring repair or maintenance shall be made to the President of the Association or his designee, or to the Executive Board. All complaints made to the Association shall be disposed of pursuant to policies established by the Executive Board. The provisions of this Section 4.2 shall not be amended without the prior written consent of The Niwot Sanitation District and Left Hand Water District as to any amendment affecting the obligations of the Association to these districts.

4.3 Lots. Each Owner shall maintain, repair and replace, at their own expense, all portions of their Lot including the Dwelling Unit and all other Improvements located thereon, and including any easements located thereon, as depicted on the Plats. For the avoidance of doubt, each Lot, including the Dwelling Unit and all other Improvements located thereon, shall be kept in good condition and repair, and the Dwelling Unit and all other Improvements thereon shall be adequately painted or finished by the Owner before the surfacing becomes weather-beaten or worn off.

4.4 Right of Access. Any person authorized by the Executive Board shall have the right of access to all portions of any Lot for the purpose of performing emergency repairs or to do other work reasonably necessary for the proper maintenance of the Common Areas, for the purpose of performing installations, alterations or repairs, and for the purpose of reading, repairing and replacing utility meters and related pipes, valves, wires and equipment, provided that requests for entry are made in advance and that any entry is at a time reasonably convenient to the affected Owner. In case of an emergency, no request or notice is required and the right of entry shall be immediate, and with as much force as is reasonably necessary to gain entrance, whether or not the Owner is present at the time.

4.5 Owner's Failure to Maintain; Notice of Noncompliance. In the event an Owner shall fail to perform the maintenance, repair or replacement required to be performed by him, the Association may, without any obligation to do so, take such action as is permitted by this Declaration, and if said failure continues for a period of thirty (30) days after written notice to said Owner, record a notice of noncompliance in the office of the Clerk and Recorder of Boulder County, Colorado.

4.6 Repairs Resulting From Negligence. Each Owner will reimburse the Association for any damages to the Common Areas caused by an Owner's intentional, negligent, careless acts or the Owner's failure to properly maintain, repair or make replacements to a Lot including drainage. If damage is inflicted on any Lot as a result of entry thereon by the Association, through maintenance access under Section 4.4, the Association will be responsible to repair such damage.

#### Article 5.

#### ASSESSMENT AND COLLECTION OF COMMON EXPENSES

5.1 Purpose of Common Expenses. The Assessments levied by the Association may be used to promote the recreation, health, safety and welfare of the residents of the Community and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to the Documents, or by law.

5.2 Apportionment of Common Expenses. Except as provided herein with respect to Specific Assessments, all Common Expenses shall be assessed against all Lots in accordance with the Allocated Interests.

5.3 Annual Assessments. The Annual Assessments shall be levied on an annual basis against all Lots and shall be based upon the Association's budget of the Common Expenses that are for the benefit of the entire Community. The Annual Assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on an occasional basis, and for the payment of insurance deductibles. Annual Assessments may be collected in monthly, quarterly, biannual or annual installments, or in any other manner as determined by the Executive Board. The omission or failure of the Executive Board to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

5.4 Special Assessments. In addition to the Annual Assessments authorized in this Article, but subject to the limitations set forth herein, the Executive Board may adopt a proposed Special Assessment applicable to one or more years, for the purpose of funding reserves, or defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of any Improvement upon any portion of the Common Areas, including fixtures and personal property related thereto, or for the funding of any operating deficit incurred by the Association. Within thirty (30) days after the Executive Board adopts the proposed Special Assessment, the Executive Board shall mail by first-class mail or deliver (hand deliver or via e-mail) a summary of the adopted Special Assessment to each Member and shall set a date for a meeting of the Members to consider ratification of the Special Assessment. The meeting shall be not less than twenty-one (21) nor more than fifty (50) days after mailing or other delivery of the summary. A Special Assessment is ratified if a quorum of 30% is present and the Special Assessment is approved by 67% of the votes cast by Members in person or by proxy at the meeting. The Special Assessment, if any, shall be levied against each Lot in accordance with the Allocated Interests.

## 5.5 Common Expenses Attributable to Fewer than all Lots. Specific Assessments.

5.5.1 Specific Assessments shall be assessed against Lot 8, Block 4. Replat A, Somerset Estates Block 4 and Lot 4. Block 5. Replat B. Somerset Estates Block 5 as provided in the documents entitled "Lot Covenant" recorded on April 26, 1999 at Reception No. 1931444 and May 28, 1999 at Reception No. 1944460 in the office of the Clerk and Recorder of Boulder County, Colorado, which relate to the payment for maintenance of what is commonly known as the Eagle Point pond, as such documents may be amended from time to time.

5.5.2 Any insurance premium increase attributable to a particular Lot by virtue of activities in or construction of the Lot shall be assessed against that Lot.

5.5.3 If a Common Expense is caused by the misconduct of an Owner or Guest, the Association may assess that expense exclusively against that Owner's Lot.

5.5.4 Fees including attorney fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against an Owner pursuant to the Documents and the Act may be assessed against that Lot as a Specific Assessment.

## 5.6 Lien.

5.6.1 The Association has a lien on a Lot for all Assessments levied against the Lot and all fees, charges, late charges, attorneys' fees, fines and interest imposed against its Owner, from the time such amounts become due. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid acceleration of installment obligations. A lien under this section is prior to all other liens and encumbrances on a Lot except: (a) liens and encumbrances recorded before the recordation of the Declaration; (b) a Mortgage on the Lot which has priority over all other Mortgages on the Lot and recorded before the date on which the Assessment sought to be enforced became delinquent; and (c) liens for real estate taxes and other governmental assessments or charges against the Lot. A lien under this section is also prior to all Mortgages described in (b) above to the extent of an amount equal to the Assessments based on the periodic budget adopted by the Association pursuant to Section 5.7 which would have become due, in the absence of acceleration, during the six (6) months immediately preceding institution by either the Association or the holder of a first Mortgage of an action or a nonjudicial foreclosure either to enforce or extinguish either the Association's lien or a Mortgage described in (b) of this subsection 5.6.1. This section does not affect the priority of mechanics' or materialmen's liens or the priority of a lien for other assessments made by the Association.

5.6.2 A lien under this Section is not subject to the provision of Section 38-41-201 or 15-11-201, C.R.S. The Association's lien on a Lot for any assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States.

5.6.3 The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien. Recording of this Declaration constitutes record notice and perfection of the lien. Further recording of a claim of

lien for an Assessment is not required. However, the Executive Board or an authorized agent of the Association may prepare and record in Boulder County a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If a notice of lien is filed, the costs and expenses thereof shall be added to the Assessment for the Lot against which it is filed and collected as part and parcel thereof.

5.64 A lien for an unpaid Assessment is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the unpaid Assessment became due, but shall continue for a like term for any other unpaid Assessments.

5.65 This Section 5.6 does not prohibit an action to recover sums for which subsection 5.6.1 creates a lien or to prohibit the Association from taking a deed in lieu of foreclosure.

5.66 A judgment or decree in any action brought under this Section shall entitle the Association to costs and reasonable attorney fees, which shall be additional Assessments.

5.67 The Association's lien may be foreclosed by the same procedure by which a mortgage or deed of trust on real estate is foreclosed. The Executive Board shall have the power to bid at the foreclosure sale, and if title is obtained, hold, lease, mortgage, and encumber or convey the same.

5.68 In any action by the Association to collect Assessments or to foreclose a lien for unpaid Assessments, the court may appoint a receiver for the Owner to collect all sums alleged to be due from that Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Assessments.

5.69 If a holder of a First Mortgage in a Lot forecloses that Mortgage, the purchaser at the foreclosure sale is not liable for any unpaid Assessments against that Lot which became due before the sale, other than the Assessments which are prior to that Mortgage under subsection 5.6.1.

5.6.10 Any payments received by the Association in the discharge of an Owner's obligation shall be applied to attorney fees and costs first, then late fees, penalties and interest, and then the oldest balance due.

5.6.11 Sale or transfer of any Lot shall not affect the lien for Assessments or charges except that sale or transfer of any Lot pursuant to foreclosure of any first Mortgage, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture, shall only extinguish the lien of assessment charges as provided by applicable Colorado law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture, shall relieve any Lot from continuing liability for any assessment charges thereafter becoming due, nor from the lien thereof.

5.7 **Budget Adoption and Ratification.** At least annually, the Executive Board shall adopt a proposed budget of the expected Common Expenses for the next fiscal year, as follows.

5.7.1 Within ninety (90) days after adoption of a proposed budget, the Executive Board shall mail, by first-class mail, or otherwise deliver, including posting the proposed budget on the association's website, a summary of the budget to all Members and shall set a date for a meeting of the Members to consider the budget. The meeting shall occur not less than twenty-one (21) nor more than fifty (50) days after mailing or other delivery (hand delivery or email) of the summary. The Executive Board shall give notice to the Members of the meeting as allowed for in the Bylaws.

5.7.2 If the annual assessment in the proposed budget is not greater than 110% of the previous year's annual assessment, the budget shall be deemed to be ratified, unless at that meeting a majority of all Members in the Association reject the budget, whether or not a quorum is present. If the annual assessment in the proposed budget is greater than 110% of the previous year's annual assessment, the budget shall be ratified if a quorum of 30% is present and the budget is approved by a majority of the votes cast by Members in person or by proxy at the meeting. If the proposed budget is rejected, the periodic budget last ratified by the Members continues until the Members ratify a new budget proposed by the Executive Board.

5.8 Certificate of Payment of Assessments. The Association, upon written request, shall furnish an Owner or their designee, or a holder of a Mortgage or its designee, a written statement setting out the amount of unpaid Assessments against the Lot. Said request shall be delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's registered agent. The statement shall be furnished within fourteen (14) calendar days after receipt of the request, delivered personally or by certified mail, first class postage prepaid, return receipt requested, and is binding on the Association, the Executive Board and each Owner. If no statement is furnished to the unit owner or holder of a Mortgage or their designee as and when required by this Section 5.8, the Association shall have no right to assert a lien upon the Lot for unpaid assessments which were due as of the date of the request.

5.9 Effect of Nonpayment of Assessment. Remedies of the Association. Any Assessment not paid within thirty (30) days after the due date thereof shall be delinquent. Fees including attorney fees, late charges, and interest from the due date at the rate equal to the 12 month LIBOR as of the previous December 31<sup>st</sup>, plus 4% per annum adjusted annually, or at such lesser rate as may be set from time to time by the Executive Board, may be charged pursuant to the Documents due to late payment of Assessments. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against such Lot. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include interest on the Assessment and attorneys' fees, together with the costs of the action, and other fees.

5.10 Acceleration of Assessments. If any Owner does not make the payment of any Assessment levied against their Lot within thirty (30) days of the date due, the Executive Board shall have the right to declare all unpaid Assessments for the pertinent fiscal year immediately due and payable for that Lot.

5.11 No Waiver of Liability for Common Expenses. No Owner may become exempt from liability for payment of the Assessments by waiver of the use or enjoyment of the Common Areas, by abandonment of the Lot against which the Assessments are made, or because of dissatisfaction with the Association's performance, or for any other reason.

5.12 Personal Liability of Owners. Each Owner, by acceptance of a deed for his, her, or its Lot, whether or not it shall be so expressed in such deed, is personally liable for Assessments made against such Owner's Lot during the period of ownership of such Lot, at the time an Assessment or portion of the Assessment is due and payable. Personal liability for the Assessment shall not pass to a successor in title to the Lot unless the successor agrees to assume the obligation. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all Assessments. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without setoff or deduction. No diminution or abatement of Assessments or setoff shall be claimed or allowed for any alleged failure of the Association or Executive Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

5.13 Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be retained by the Association as unallocated reserves or credited to Owners to reduce their future Assessments and need not be paid to the Owners in proportion to their Common Expense liability.

#### Article 6. RESTRICTIONS ON OCCUPANCY AND USE

6.1 Restrictions Imposed. All of the Lots shall be held, conveyed, used, improved, occupied, owned, resided upon and secured, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration. These restrictions are general in nature. The Architectural Control Committee (ACC) shall propose and the Executive Board shall have the power to adopt, amend, repeal and enforce more specific and restrictive Architectural and Landscaping Standards and reasonable Rules as the Executive Board deems to be reasonable and necessary to carry out the intent of this Declaration.

6.2 Occupancy and Use Restrictions. The following occupancy and use restrictions shall apply to all Lots:

6.2.1 No unlawful use may be made of the Lots or Dwelling Units. Owners and Guests shall comply with and conform to all applicable laws and regulations of the United States, the state of Colorado and all other governmental ordinances, rules and regulations.

6.2.2 No noxious, offensive, dangerous or unsafe activity shall be conducted in or on any Lot, nor shall anything be done, either willfully or negligently, which may be or become an unreasonable annoyance or nuisance to the other Owners or Guests. No Owner or Guest shall make or permit any unreasonably disturbing noises nor do or permit anything to be done by others that will unreasonably interfere with the rights, comforts or convenience of other Owners or Guests. Habitually barking, howling or yelping dogs shall be deemed a nuisance. The use of exterior spot lights, searchlights, speakers, horns, whistles, bells or other light or sound devices on any Lot may be regulated or prohibited by the Architectural and Landscaping Standards.

6.2.3 Except as may be approved in writing by the Executive Board, nothing shall be done or



kept which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

6.2.4 If, due to the act or neglect of an Owner or Guests, loss or damage shall occur or be caused to any person or property within the Common Areas, such Owner or Guest shall be liable and responsible for the payment of same. The amount of such loss or damage, together with costs of collection and reasonable attorney's fees, if necessary, may be collected by the Executive Board after Notice and Hearing, from such Owner as an Assessment against such Owner as a Specific Assessment.

6.2.5 Each and every one of the Lots shall be used for private, single family, residential purposes only. Only one single family residence structure shall be permitted to be constructed and maintained on each Lot. Garages must be part of the principal structure or attached to the principal structure by arbor or breezeway and must conform to the architecture of the principal structure. No other Improvement shall be permitted on any Lot without the express prior written approval of the ACC.

6.2.6 No room or rooms in any Dwelling Unit or parts thereof may be rented or leased and no paying Guests shall be quartered in any Dwelling Unit. Nothing contained in this section, however, shall be construed as preventing the renting or leasing of an entire Dwelling Unit as a single unit to a single family, in which case any such rental may be regulated by reasonable Rules adopted by the Executive Board.

6.2.7 Each Lot and Dwelling Unit shall be limited to use for residential purposes only, except that home occupations conducted inside a Dwelling Unit by the residents who reside therein, are permitted provided that: (i) any such activity is not in violation of any local government laws having jurisdiction over the community; (ii) no accessory structure shall be used primarily for the home occupation; (iii) the home occupation is not apparent or detectable by, and does not result in, noise or vibration, light, odor, dust, smoke, or other air pollution beyond the Dwelling Unit or accessory structure, which is noticeable from any point within the Community (iv) the home occupation does not increase traffic within the Community; (v) the home occupation does not result in pollution of any kind being discharged from the Dwelling Unit or any accessory structure; (vi) no signage of any nature shall be installed identifying or advertising the home occupation; and (vii) the home occupation does not increase the insurance obligation or premium of the Association. No childcare facilities shall be permitted without the prior written consent of the Executive Board.

6.2.8 No horses, cattle, sheep, goats, pigs, llamas, ostriches, rabbits, poultry, or other animals of any description shall be kept or maintained on any part of said Lots, but residents may keep not more than four (4) customary household pets (such as dogs and cats) and litters thereof under the age of four months, or other animals which are bona fide and customary household pets, as long as no more than two (2) dogs spend time outside unattended on the Lot, and such pets are not kept for commercial purposes and do not make objectionable noises or otherwise constitute a nuisance or inconvenience to the residents of other properties. Owners and Guests shall hold the Association harmless from any claim, loss, liability or damage resulting from any action of their animals. The right to keep household animals or pets may be regulated by reasonable Rules issued by the Executive Board, and shall be coupled with the responsibility to pay for any

damage caused by such animals or pets, as well as any costs incurred by the Association as a result of such animals or pets, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of Assessments as provided in this Declaration. Following Notice and Hearing, if an animal causes or creates a nuisance or unreasonable disturbance or noise, the Executive Board may levy reasonable fines, refer the matter to Boulder County Animal Control, or take any other reasonable measure to address the nuisance or unreasonable disturbance or noise. Nothing in this Section shall prohibit or limit the use of animals as permitted or required under federal, state, or local law, including but not limited to the Fair Housing Amendments Act.

6.2.9 No temporary house trailer, garage or out-building shall be kept, maintained or allowed to remain for a period longer than forty-eight (48) consecutive hours upon any part of any Lot, and no Dwelling Unit placed or erected on any Lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans as herein set forth; provided, however, that during the actual construction or alteration of a structure on any Lot, necessary temporary buildings or structures may be erected and maintained by the person doing such work. The work of construction, altering or remodeling any building or any part of the property shall be prosecuted diligently from the commencement thereof until the completion thereof.

6.2.10 Except as approved by the ACC, no advertising or signs of any character shall be erected, placed, permitted or maintained on any Lot other than political signs permitted by the Act, and a sign with the Lot's street number. One real estate sign advertising the sale of the property, but not larger than 2' x 3', shall be permitted.

6.2.11 All satellite dishes and devices or facilities to transmit or receive electronic signals, radio or television waves are subject to the Architectural and Landscaping Standards and the requirements of Rules and guidelines adopted by the Executive Board in conformance with applicable federal law. Unless expressly permitted by the Telecommunications Act of 1996, such satellite dishes, devices or facilities are prohibited without first obtaining ACC approval.

6.2.12 Each Lot at all times shall be kept in a clean, sightly and wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other buildings materials shall be stored outside of the Dwelling Unit or permitted to remain exposed upon any Lot so they are visible from any neighboring Lot or street, except as necessary during the period of construction. Each Lot shall at all times be kept clear of weeds and other unsightly growth.

6.2.13 In the event any structure on a Lot is destroyed either wholly or partially by fire or any other casualty, said structure shall be promptly rebuilt or remodeled to conform to this Declaration and in the event it shall not be rebuilt, all remaining portions of the structure, including the foundations, and all debris shall be promptly removed from the Lot, and in any event, no later than twelve (12) months following the event causing the destruction or damage.

6.2.14 No Lot or Lots shall be subdivided or resubdivided, except for the purpose of combining portions thereof with an adjoining Lot, without first obtaining approval from the County of Boulder and the ACC, and provided that no additional building site is created thereby. Any ownership or single holding by any person comprising the whole of one Lot and part or parts of

one or more adjoining Lots, but not more than 33% of any such Lot, shall, for all purposes of this Declaration be deemed as constituting a single Lot. Not less than one entire Lot as originally laid out shall be used as a building site without the prior written consent of the ACC. In the event of a combination of a Lot and part or all of an adjoining Lot, the Allocated Interests assigned to such Lots shall be re-allocated to account for the reduced number of Lots in the Community.

6.2.15 No vehicle, motorcycle, motorbike, moped, boat, trailer, all-terrain vehicle, or similar equipment shall be parked on any Lot or street adjacent thereto while it is undergoing repairs which immobilize the vehicle or equipment for a period of more than two consecutive days, unless the vehicle or other item undergoing repairs is within an enclosed garage and not visible to passersby during the entire period of such repairs.

### 6.3 Architectural and Site Restrictions.

6.3.1 The ACC shall propose and the Executive Board shall approve and issue reasonable Architectural and Landscaping Standards that regulate the construction of Dwelling Units on a Lot. These Architectural and Landscaping Standards may include guidelines on exterior colors and finishes; and exterior parking areas. Notwithstanding the foregoing, every Dwelling Unit constructed on a Lot shall have not less than 3,000 square feet of floor area devoted to living purposes (exclusive of roofed or unroofed porches, terraces, unfinished lower level walkouts, basements, or garages) and shall have a garage of sufficient size to house not less than three cars. If a residence of more than one story is constructed, then the main floor shall not have less than 1,800 square feet of floor area devoted to living space.

6.3.2 The ACC shall propose and the Executive Board shall approve and issue reasonable Architectural and Landscape Guidelines that regulate the use of roofing materials within Somerset Estates.

6.3.3 Each building, structure or other Improvement other than a wall, fence, uncovered terrace or steps, which is erected or placed upon any Lot shall be located in accordance with the following minimum prescribed distances from lot lines:

- (1) Front yard setbacks shall be not less than 35 feet from the front Lot line which faces the street. All Lots contiguous to two or more streets shall have a setback of not less than 35 feet from each Lot line which is contiguous to a street.
- (2) Rear yard setbacks shall be not less than 15 feet from any rear Lot line.
- (3) Side yard setbacks shall be not less than 15 feet from any side Lot line. Roofs may overhang the setback requirements by not more than two feet. The ACC, with approval of the Executive Board, may grant reasonable exceptions to the setback requirements hereinabove set forth where necessary to prevent an undue hardship on the owner of any Lot. Each Lot Owner, however, shall be encouraged to locate any structure on a Lot in such manner as to centrally locate the structure on the Lot.

6.3.4 The construction of fences or walls on any Lot may be regulated by reasonable Architectural and Landscaping Standards. No fence or wall shall be constructed or modified on

any Lot without the prior written consent of the ACC. The ACC, as a general rule, shall refuse permission for boundary fences and walls which would obstruct views, but shall, as a general rule, be receptive to granting permission for privacy fences or walls screening patios, outdoor eating areas and the like which encompass substantially less than all of a rear, side or front yard. For purposes of this section, hedges shall be considered to be the same as fences and subject to the same restrictions. The term "wall" as used in this section shall not include the walls of a Dwelling Unit or garage, but rather shall mean walls which are free-standing and intended to enclose or screen areas outside the Dwelling Unit or garage. As a general rule, all fences installed within the Community shall be of design and materials consistent with the existing fences originally installed around the perimeter of the community as determined by the ACC. Materials specified in the Architectural and Landscaping Standards addressing fence standards for the containment of any pets may be added to the perimeter fencing, subject to prior approval by the ACC.

6.3.5 Any Dwelling Unit shall be entirely constructed on the Lot, and the same shall not, nor shall any part thereof, be moved or placed thereon from elsewhere, without the prior written consent of the ACC.

6.3.6 The Executive Board shall have the authority to issue reasonable Rules governing the care and maintenance of any unpaved portions of the Lot. Any easements or rights-of-way contiguous to any Lot which are not part of the Common Areas of the Community as shown on the Plats shall be maintained by the Lot Owner whose Lot is encumbered by the easement or right-of-way. The Owner of each Lot shall landscape and maintain the area of public street right-of-way from the Lot line(s) to the edge of the asphalt paving of the public streets, with the exception of the easements and rights of way on either side of Somerset Drive and Longview Drive that have historically been maintained by the Association.

6.3.7 The ACC shall propose and the Executive Board shall approve and issue reasonable Architectural and Landscaping Standards governing the use, placement, and concealment of elevated tanks; refrigeration, cooling, or heating apparatus; energy generation devices; and energy efficiency measures, except that such provisions may not conflict with Colorado Law.

6.3.8 Parking within Somerset Estates may be regulated by reasonable Rules issued by the Executive Board. These Rules may regulate the types of vehicles which may be parked within Somerset Estates, either on a Lot or on the street, and may also regulate the hours during which such vehicles may be parked. Large objects such as boats, campers, trailers or trucks shall not be maintained, stored or parked on any Lot, except in garages. In the absence of such Rules and except as provided in this section 6.3.8, parking of vehicles on streets and Common Areas is prohibited. Exceptions will be made for temporary situations such as deliveries, construction, and guests, as reasonably determined by the Executive Board.

6.3.9 The Executive Board shall have the authority to adopt reasonable Rules regulating the placement and storage of garbage, trash, recycle, compost, or other receptacles on any Lot.

6.3.10 No overhead utility lines shall be installed or maintained on any portion of the Lots, except that during the construction of a residence the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of

construction.

6.3.11 The ACC shall propose and the Executive Board shall approve and issue reasonable Architectural and Landscaping Standards regulating the amount of lighting required on each Lot, as well as the design, installation and maintenance of exterior lighting on each Lot.

#### Article 7.

### ARCHITECTURAL CONTROL COMMITTEE

7.1 Written Approval of Plans Required. No Improvements shall be commenced or constructed, erected, placed, planted, applied, installed, removed, or modified (excluding routine maintenance) upon any Lot unless plans and specifications therefor shall have been first submitted to and approved in writing by the Architectural Control Committee (ACC). Said plans and specifications shall show exterior design, height, materials, color, and location of the Improvements, and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information that may be required by the ACC. The ACC shall exercise its reasonable judgment to the end that all Improvements conform to the Architectural and Landscaping Standards and harmonize with the existing surroundings, residences, landscaping and structures. The ACC shall have the right to disapprove any plans, specifications or details submitted to it as aforesaid in accordance with all of the provisions of this Declaration if: (i) the design or color scheme of the proposed Improvements is not in harmony with the general surroundings of such Lot or with the adjacent buildings or structures; (ii) the plans and specifications submitted are incomplete; (iii) in the event the ACC deems the plans, specifications or details or any part thereof to be contrary to the spirit or intent of this Declaration, or the Architectural and Landscaping Standards; or (iv) if such plans, specifications and design are contrary to the interest, welfare or rights of all or any member of the Association, all in the reasonable discretion of the ACC. In its review of such plans, specifications and other materials and information, the ACC may require that the applicant(s) pay for extraordinary expenses such as use of outside experts to evaluate extensive or complex projects that are beyond the scope of the Committee members' expertise in the review and approval process. Such amounts, if any, shall be levied as a Specific Assessment against the Lot for which the request for ACC approval was made. After approval by the ACC of any Improvement, the Improvement shall be accomplished as promptly and diligently as possible and in complete conformity with the approval given by the ACC. Failure to accomplish the completion of the approved Improvement within one year after the date of approval or strictly in accordance with the approved plans and specifications therefor, shall operate automatically to revoke the approval of the proposed Improvement and upon demand by the ACC, the Lot or Dwelling Unit shall be restored as nearly as possible to its state existing prior to any work in connection with the proposed Improvement. The Association shall have the right and authority to record a notice against title to a Lot to indicate that any particular Improvement has not been approved or that any approval given has been revoked.

7.2 Approval of Governmental Entities. In addition to the required approvals of the ACC as provided in this Article, the construction, erection, addition, deletion, change, or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction over such Improvements, and issuance of all required permits, licenses and approvals by such entities. Approval of any Improvement by the ACC shall not be deemed to be approval by any governmental entities.

7.3 Guidelines, Standards, Rules, and Procedures. The ACC may propose and the Executive Board may from time to time, adopt, promulgate, amend or otherwise revise additional guidelines, standards, Architectural and Landscaping Standards, Rules and procedures governing architectural review for the purposes of further enhancing, defining, or interpreting what items or Improvements are covered by this Article 7 and providing for changes in technology, industry standards, style, materials, safety issues, consistency with updated building codes or other laws or ordinances, or for any other reason that the Executive Board deems proper, necessary or in the best interests of the Community. Any guidelines, standards, Rules and procedures or amendment thereto, shall apply to construction, additions, modifications, installations or items placed on a Lot occurring after the date such guidelines, standards, Rules, and procedures or amendments are published or otherwise made available to all Owners.

7.4 Membership of Committee. The ACC shall consist of three (3) or more persons appointed by the Executive Board. The power to appoint shall include the power to fill any vacancy and remove any member of the ACC, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the Executive Board.

7.5 Procedures. The ACC shall approve or disapprove all requests for approval within thirty (30) days after the complete submission of the plans, specifications and other materials and information which the Committee may require in conjunction therewith. If the ACC fails to approve or disapprove any request within thirty (30) days after the complete submission of the plans, specifications, materials and other information with respect thereto, the request shall be deemed to have been approved by the ACC.

7.6 Vote and Review. A majority vote of the ACC may approve a request for approval pursuant to this Article. In the event any Owner is dissatisfied with any decision of the ACC with regard to such Owner's proposed Improvements, all members of the ACC are required to meet with and review the request with the Owner. Any further review will be according to the Rules and procedures approved by the Executive Board. In addition, any Owner affected by the decision of the ACC with respect to another Owner's Lot may request a review of such decision according to the Rules and procedures approved by the Executive Board.

7.7 Records and Certificate of Compliance. The ACC shall maintain written records of all applications submitted to it and all actions taken by it. The Association shall be authorized to, and shall, upon the reasonable request of any interested person, after confirming necessary facts with the ACC, furnish a certificate with respect to approval or disapproval of any plans, specifications and design which have been submitted to the ACC for its approval of any Improvements, and any person, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

7.8 Liability. The ACC and the members thereof, as well as the Association, the Executive Board, or any representative of the ACC appointed to act on its behalf, shall not be liable for any loss, damage or injury arising out of or in any way connected with the performance of the ACC for any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder, if such action was in good faith or without malice. In reviewing any matter, the ACC shall not be responsible for approving the safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations, nor shall its approval of an

Improvement be deemed approval of such matters.

7.9 Variances. The ACC may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article 7, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments (1) shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or Improvements in the community; (2) shall not militate against the general intent and purpose hereof; (3) shall not set a precedent for any other applicant; and (4) shall be approved by the Executive Board after opportunity is allowed for community input.

7.10 Waivers. The approval or consent of the ACC, any representative thereof, or the Executive Board, to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the ACC, any representative thereof, or the Executive Board, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required.

## Article 8. INSURANCE

8.1 Coverage. To the extent reasonably available, the Executive Board shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, or if any policy is canceled, or not renewed, without a replacement policy having been obtained, the Association shall cause notice of that fact to be hand delivered or sent prepaid by U.S. mail to all Owners at their respective last known addresses.

8.2 Property Insurance. The Association shall obtain property insurance on the Common Areas for broad form covered causes of loss and on all personal property owned by the Association. The property insurance will be for an amount (after application of any deductions for depreciation) equal to one hundred percent (100%) of the full insurable replacement cost of the insured property less applicable deductibles, exclusive of land, foundations, excavations and other items normally excluded from property policies. The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing replacement cost of the property, and the cost of such appraisals shall be a Common Expense.

8.3 Liability Insurance. The Association shall obtain and maintain commercial general liability insurance in an amount determined by the Executive Board, but in no event shall it be less than \$1,000,000 per incident. Reasonable amounts of umbrella liability insurance in excess of the primary limits may also be obtained. This insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Areas and the activities of the Association, and may also include, if applicable, comprehensive automobile liability insurance, garage keeper's liability, liability for property of others, host liquor liability, water damage liability, contractual liability, and such other risks as may be customarily carried by common interest communities similar to the Community.

8.4 Mandatory Provisions. The insurance policies carried pursuant to Sections 8.2 and 8.3 shall provide that:

8.4.1 Each Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Areas or membership in the Association;

8.4.2 The insurer waives the right to subrogation under the policy against an Owner or member of the household of an Owner;

8.4.3 No act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

8.4.4 If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance; and

8.4.5 The insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or holder of a Mortgage. Unless otherwise provided by Colorado law, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner and each holder of a Mortgage to whom a certificate or memorandum of insurance has been issued at their last known addresses.

8.5 Deductibles. The Executive Board may adopt and establish written non-discriminatory Rules or policies and procedures relating to the responsibility for deductibles under the Association's insurance policies. After Notice and Hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of one or more Owners; and, upon said determination by the Association, any such loss, or any portion thereof, may be assessed to the Owner(s) in question and the Association may collect such amount(s) from said Owner(s) as a Specific Assessment.

8.6 Fidelity Insurance. Fidelity insurance must be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees and employees and on the part of all others, including any Manager hired by the Association, who handle or are responsible for handling the funds belonging to or administered by the Association in an amount not less than the greater of (a) fifty thousand dollars (\$50,000) or (b) the estimated maximum amount of funds, including reserve funds, in the custody of the Association or Manager as the case may be, at any given time during the term of each policy as calculated from the current budget of the Association, but in no event less than a sum equal to two (2) months' aggregate Assessments plus reserve funds. In addition, if responsibility for handling funds is delegated to a Manager, such insurance must be obtained by or for the Manager and its officers, employees and agents, as applicable. Such fidelity insurance shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions.

8.7 Owner Policies. An insurance policy issued to the Association does not preclude Owners from obtaining insurance for their own benefit. Insurance coverage on each Owner's Lot, and the Improvements thereon, as well as on personal property, furnishings and fixtures belonging to an Owner, all of which shall provide for replacement cost coverage, and public liability insurance coverage on each Lot, shall all be the responsibility of the Owner of such Lot. Each Lot shall be



insured in an amount not less than the full replacement value of the Improvements thereon, less applicable deductibles, and excluding land, foundations and other items normally excluded from property policies.

8.8 Workers Compensation Insurance. The Executive Board shall obtain and maintain workers' compensation insurance if required to meet the requirements of the laws of the state of Colorado.

8.9 Directors' and Officers' Liability Insurance. The Executive Board shall obtain and maintain directors' and officers' liability insurance, if reasonably available, covering all of the directors and officers of the Association. This insurance will have limits determined by the Executive Board.

8.10 Other Insurance. The Association may carry other insurance which the Executive Board considers appropriate to protect the Association.

8.11 Procedures. The Executive Board may adopt written nondiscriminatory policies and procedures for claims adjustment and responsibility for deductibles. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. If more than one (1) Lot is damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

8.12 Insurance Proceeds. Any loss covered by the property insurance policy described in Section 8.2 above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association, and not to any Mortgagee. The Association shall hold any insurance proceeds in trust for the Association, Owners and lienholders as their interests may appear. The proceeds must be disbursed first for the repair or restoration of the damaged property, and the Owners, the Association and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored. If insurance proceeds from a loss or damage to property are distributed to the Owners, the distribution shall be as the parties with interests and rights are determined or allocated by record. The Association may designate a trustee for the receipt, administration and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses and other sources.

8.13 Damage to Property. Any portion of the Common Areas for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

8.13.1 The Community is terminated in which case the approval must first be obtained of Members holding sixty-seven percent (67%) of the votes in the Association; or

8.13.2 Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety.

The cost of repair or replacement of Common Areas in excess of insurance proceeds and reserves is a Common Expense. If all the Common Areas are not repaired or replaced, the insurance proceeds attributable to the damaged Common Areas must be used to restore the damaged area to a condition compatible with the remainder of the Community, and except to the extent that other persons will be distributees, the insurance proceeds must be distributed to all the Owners or Mortgagees, as their

interests may appear in proportion to the Common Expense liabilities of all of the Lots.

Article 9.  
EASEMENTS AND LICENSES

9.1 Easements and Licenses. Easements or licenses to which the Lots and the Community are presently subject are depicted on the Plats. It is not the intent of this Declaration to supersede, revoke, rescind, or modify in any manner existing easements, all of which shall remain in full force and effect unless expressly modified.

9.2 Easements for the Executive Board. Each Lot shall be subject to an easement in favor of the Executive Board (including its agents, employees and contractors) to perform its obligations pursuant to this Declaration.

9.3 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Property, to enter upon any part of the Community in the performance of their duties.

9.4 Easement for Encroachments. If any Lot or Common Area encroaches on any other Lot or Common Area, a valid easement for the encroachment exists. The easement does not relieve an Owner of liability in case of willful misconduct nor relieve any other Person of liability for failure to adhere to approved plans and specifications for the construction of Improvements.

9.5 Easements for Drainage and Utilities. Easements for the installation and maintenance of utilities, drainage facilities, public or private improvements and access thereto are reserved as shown on the Plats and other documents affecting the Lots and any amendments to such Plats and documents or as established by any other instrument of record. No Improvements shall be placed or permitted to remain on any Lot nor shall any change in grading be permitted to exist which may change the direction of flow or obstruct or retard the flow of water through channels or swales within any such drainage easements.

9.6 Irrigation Ditch Easements and Rights of Waiver. The irrigation ditches which exist upon the Property or Common Areas, or which abut the Property or the Common Areas, are not available and shall not be used for the use and enjoyment of the Owners or their Guests. Any unauthorized entry upon said irrigation ditches shall be deemed a trespass, and neither the Association, the County of Boulder, nor the ditch company or companies shall be liable for any injuries or damages suffered or incurred by the person or persons making said unauthorized entry. Notwithstanding the disclaimer contained herein, the Association shall, to the extent that it can acquire public liability insurance covering such injuries or damages at a reasonable annual premium, secure such insurance in amounts acquirable for such annual premium, and shall maintain said insurance in full force and effect so long as the same is so available.

Article 10.  
DURATION AND AMENDMENT

10.1 Duration. This Declaration shall run with and bind the land perpetually, unless terminated as set

forth in Article 11 below.

10.2 Amendment. This Declaration, and any of its terms, provisions, covenants, conditions or restrictions may be amended at any time, by vote or agreement of Members to which not less than sixty-seven percent (67%) of the votes in the Association are allocated. The amendment shall be effective upon recording with the Clerk and Recorder of Boulder County, Colorado. The President of the Association, by his or her acknowledged signature on the amendment shall certify that the required number of Members voted in favor of, or agreed to, the amendment. Where a Lot is owned by more than one (1) person, the vote or agreement of any one of such Owners shall constitute the vote or agreement of all Owners. No action shall be commenced or maintained to challenge the validity of any aspect of any amendment of the Declaration unless it is commenced within one (1) year from the effective date of said amendment, unless fraud or willful negligence is asserted and proven.

#### Article 11. TERMINATION

Termination of the Community may be accomplished only in accordance with C.R.S. Section 38-33.3-218, upon agreement of Members to which at least sixty-seven percent (67%) of the votes are allocated.

#### Article 12. MORTGAGE PROTECTION

12.1 Rights of First Mortgage Holders. Holders of First Mortgage shall have the following rights:

12.1.1 Holders of first Mortgages shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may or have become a lien against the Common Areas and may pay overdue premiums on property insurance policies or secure new property insurance coverage on the lapse of a policy for the Common Areas, and any holder of a First Mortgage making any such payments shall be owed immediate reimbursement therefor from the Association.

12.1.2 Holders of first Mortgages will be entitled to cure any delinquency of the Owner of the Lot encumbered by the first Mortgage in the payment of Assessments. In such event, the holder of the first Mortgage will be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

12.2 Title Taken by First Mortgage Holder. Any holder of a Mortgage who obtains title to a Lot pursuant to the remedies provided in the Mortgage documentation, including foreclosure or deed in lieu of foreclosure, will be liable for all Assessments that become due and payable as of the date title to the Lot vests in the holder of the Mortgage under the statutes of Colorado governing foreclosures. Such holder of a Mortgage will not be liable for any unpaid Assessments, dues, or charges attributable to the Lot which occurred prior to the date such title vests in the holder of the Mortgage.

Article 13.  
CONDEMNATION

13.1 Rights of Owners. Whenever all or any part of the Common Areas shall be taken by power of condemnation or eminent domain or whenever all or any part of the Common Areas is conveyed in lieu of a taking under threat of condemnation by the Executive Board acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking or conveying. Any portion of any award attributable to the Common Areas taken must be paid to the Association. The Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding. For the purposes of acquisition of all or any part of the Common Areas, service of process on the Association shall constitute sufficient notice to all Owners, and service of process on each Owner shall not be necessary.

Article 14.  
ALTERNATIVE DISPUTE RESOLUTION

14.1 Statement of Clarification. Without modifying or restricting the scope of this Article 14 and as a statement of clarification only, nothing contained in this Article is intended to prevent the parties from attempting to resolve any differences or complaints between them through the normal course of business and communications. It is only when the parties are unable to resolve their differences and they wish to proceed further through the assertion of a "Claim" as defined herein, that the mandatory dispute resolution provisions contained in this Article are activated.

14.2 Alternative Method for Resolving Disputes. The Association, its officers and Directors, and all Owners (each such Person being referred to as a "Bound Party" or individually as a "Party" or collectively as "Parties"), agree to encourage the amicable resolution of disputes involving the Community and the enforcement of the Documents except as otherwise provided herein without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit all Claims each may have to the procedures set forth in this Article 14 and not to initiate legal or equitable action in court.

14.3 Claims. Except as specifically excluded in this Section 14.3, all claims, disputes and other controversies arising out of or relating to the interpretation, application or enforcement of this Declaration, rights, obligations and duties of any Bound Party under this Declaration, and/or breach thereof (all of which are hereinafter referred to as "Claim(s)") shall be subject to and resolved in accordance with the terms and provisions of this Article 14.

14.4 Exemption from Claim. The following shall not be Claims and shall not be subject to the provisions of this Article 14:

14.4.1 any suit by the Association against any Bound Party to enforce the provisions of Article 5 (Assessments);

14.4.2 any legal or equitable action by the Association to obtain a temporary restraining order or preliminary injunction and such other ancillary relief as the court may deem necessary in order for the Association to act under and enforce the provisions of Article 6 (Restrictions on

Occupancy and Use), or Article 7 (Architectural Control Committee);

14.4.3 any legal or equitable action between or among Owners, which does not include the Association as a party; and

14.4.4 any suit in which any indispensable party is not a Bound Party.

14.5 Notice of Claim. Any Bound Party having a Claim (“Claimant”) against any other Bound Party (“Respondent”) shall submit all of their Claims by written notification delivered to each Respondent, stating plainly and concisely:

14.5.1 the nature of the Claim, including the Persons involved and Respondent’s role in the Claim;

14.5.2 the legal or contractual basis of the Claim (i.e., the specific authority out of which the Claim arises); and

14.5.3 the specific relief and/or proposed remedy sought.

14.6 Timely Initiation. All Claims shall be initiated by the Claimant within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable action based on such Claim would be barred by the applicable statute of limitations or repose.

14.7 Right to be Heard. Upon receipt of a Claim and prior to asserting the Claim commencing any arbitration which may fall within the scope of this Article 14, the Respondent shall have the right to be heard in an effort to resolve the Claim. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. Any Party may appoint a representative to assist such Party in negotiations.

14.8 Mediation. If the Parties do not resolve the Claim through negotiations within thirty (30) days after the date of submission of the Claim to Respondent(s), as may be extended upon agreement of all affected Parties, Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of an independent mediation service acceptable to all parties. If the Parties are unable to agree on a mediator, either party may apply to the District Court in Boulder County for appointment of a mediator. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and all Respondent(s) shall be released and discharged from any and all liability to Claimant on account of such Claim. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such other time as agreed to by the Parties, the mediator shall issue a notice of termination of the mediation proceedings (“Termination of Mediation”). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated. Each Party shall bear its own costs, including attorneys’ fees, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the mediation proceeding. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with this Article 14 and any Party thereafter fails to abide by the terms of such agreement, then any other affected Party may file legal action to enforce such agreement without the need to again comply with

the procedures set forth in this Article 14. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party all costs incurred in enforcing such agreement, including without limitation, attorneys' fees and court costs.

14.9 Arbitration. If the Parties do not reach a settlement of the Claim through mediation and the mediator issues a Termination of Mediation, the Claimant shall have an additional thirty (30) days to submit the Claim to binding arbitration in accordance with the arbitration procedures set forth in Exhibit C attached hereto and incorporated herein by this reference. The Parties agree that where any Claim, dispute or other controversy existing between them is submitted to arbitration, and any other Bound Party may have liability with respect thereto, all Parties including any third parties agree that the third parties may be joined as additional parties in the arbitration, or if a separate arbitration exists or is separately initiated, to the consolidation of all arbitrations. It is the intent of the parties to resolve all rights and obligations of all interested parties at one time in one forum rather than in multiple proceedings. If the Claim(s) are not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claims shall be deemed abandoned, and Respondent(s) shall be released and discharged from any and all liability to Claimant arising out of such Claims. The award rendered by the arbitrator shall be final and binding, may be filed with any court of competent jurisdiction in accordance with applicable law and judgment obtained thereon, and execution may issue. The party seeking enforcement shall be entitled to all reasonable attorney's fees and costs incurred in the enforcement of the award. The Arbitrator shall award the prevailing party such party's costs and expenses, including reasonable attorney's fees.

#### Article 15. MISCELLANEOUS

15.1 Captions. The captions contained in this Declaration are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Declaration or the intent of any provision thereof.

15.2 Gender. The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of this Declaration requires.

15.3 Waiver. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the Documents shall in no event be deemed a waiver of the right to do so thereafter or preclude the Association from enforcing any other covenant, restriction or provision of the Documents.

15.4 Severability. All provisions of this Declaration are severable. Invalidation of any of the provisions of any such documents, by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

15.5 Conflicts Between Act and Documents. The Documents are intended to comply with the requirements of the Act and the Colorado Revised Nonprofit Corporation Act. If there is any conflict between the Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control. In the event of a conflict between the Articles of Incorporation and the Bylaws, the Articles of

Incorporation shall control. In the event of a conflict between the Bylaws and the Rules, the Bylaws shall control.

**15.6 Registration of Mailing Address.** Each Owner shall register their mailing address with the Association, and if they wish to receive notices or communications from the Association by way of electronic mail or other electronic medium, shall register such electronic mail address or other electronic medium address with the Association. Any notification or communication required by law or the Documents to be mailed to Owners by U.S. mail or specified type of delivery shall be mailed by U.S. mail, postage prepaid or by personal delivery to such Owner. If an Owner has not provided an electronic mail or other electronic medium address, all notices shall be mailed to such Owners by U.S. mail, postage prepaid or personal delivery. If an Owner has provided an electronic mail or other electronic medium address to the Association, notifications or communications shall be sent to such Owner at such electronic mail or electronic medium address. Until further notification from an Owner, other than notices or communications required by law or the Documents to be sent by U.S. mail, notifications or communications sent to the Owner at the electronic mail address or other electronic medium address shall be deemed sufficient to provide written notification or communications to such Owner for any purpose required by the Documents. If any Owner fails to provide the Association with a registered address, then any notice or communication may be personally delivered or mailed by U.S. mail to such Owner at the address of such Owner's Lot. All notices, demands, or other notices intended to be served upon the Executive Board or the Association shall be sent by U.S. mail, postage prepaid to the Association's Manager, or by electronic mail at the electronic mail address provided by the Association's Manager.

**15.7 Enforcement.** Subject to the provisions of Article 14, enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in the Documents may be by any proceeding at law or in equity against any person or persons (including, without limitation, the Association) violating or attempting to violate any such provision. Subject to the provisions of Article 14, the Association and any aggrieved Owner shall have the right to institute, maintain and prosecute actions for the enforcement of the Documents. All remedies set forth in the Documents shall be cumulative of any remedies available at law or in equity. In any action instituted or maintained for enforcement, the substantially prevailing party shall be entitled to its reasonable collection costs and attorneys' fees and costs incurred in asserting or defending the claim. The decision of the Association to pursue enforcement action in any particular case shall be left to the Executive Board's discretion, subject to the duty to exercise its business judgment, and not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing, the Executive Board may determine that, under the circumstances of a particular case: (i) the Association's position is not strong enough to justify taking any or further action; (ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; (iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (iv) that it is not in the Association's best interests, based on hardship, expense or other reasonable criteria, to pursue enforcement action.

**15.8 Indemnification.** The Association shall indemnify every present and former Director, officer, and committee member against loss, costs, and expense, including attorneys' fees reasonably incurred in connection with any action, suit, or proceeding in which such person may be made a party by reason of being, or having been such Director, officer, or committee member of the Association, except for

wanton or willful acts or omissions or if such person shall be finally adjudged to be liable for any breach of the Director's duty of loyalty to the Association or its members; acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; acts specified in C.R.S. Section 7-24-111, as now in effect or hereafter amended; or any transaction from which the Director derived an improper personal benefit.

I hereby certify that the above and foregoing Consolidated, Amended and Restated Declaration for Somerset Estates was approved by vote or agreement of Members to which at least sixty-seven percent of the votes in the Association were allocated.

Dated this 14 day of August, 2018

Somerset Estates Homeowners Association, Inc., Colorado nonprofit corporation

By: [Signature]  
President

STATE OF COLORADO )  
County of Boulder ) ss.

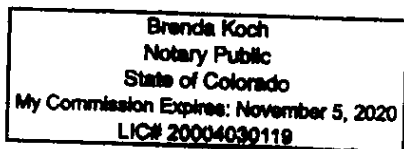
The foregoing Consolidated, Amended and Restated Declaration for Somerset Estates was acknowledged before me this 14<sup>th</sup> day of August, 2018 by Marc Arnold As President of Somerset Estates Homeowners Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: 11/5/2020

[Signature]

[SEAL]



Notary Public



EXHIBIT A TO  
CONSOLIDATED, AMENDED AND RESTATED DECLARATION FOR SOMERSET ESTATES

LEGAL DESCRIPTION OF THE COMMUNITY

Lots 1 through 23, inclusive. Block 1,  
Lots 1 through 12, inclusive. Block 2,  
Lots 1 through 17, inclusive. Block 3,  
Lots 1 through 22, inclusive. Block 4,  
Lots 1 through 15, inclusive. Block 5, Somerset Estates,  
According to the recorded plats thereof, Boulder County, Colorado

EXHIBIT B TO  
CONSOLIDATED, AMENDED AND RESTATED DECLARATION FOR SOMERSET ESTATES

DESCRIPTION OF COMMON AREAS.

Outlot J Somerset Estates, Block 1

Outlots B, C, D, F, G, J, and K Somerset Estates, Blocks 2-5

According to the recorded plats thereof, Boulder County, Colorado

Noting that a portion of Outlot D described as follows is operated by the Somerset Swim & Tennis Club (SSTC), a Colorado Nonprofit Corporation, and the Association has no liability or responsibility for the Real Property, the Facilities or the activities and affairs of SSTC.

A portion of land in Outlot 'D' Somerset Estates Blocks 2, 3, 4, and 5 as recorded under reception number 1203364 of the records of Boulder County, also being a portion of the south one-half of section 31, township 2 north, range 69 west of the sixth principal meridian, County of Boulder, State of Colorado, described as follows:

Basis of bearings is the west line of a parcel of land as recorded under reception number 851962 of the records of Boulder County, said point also being on the east line of said Outlot 'D', being considered to bear S00°05'20"W, monumented at the northwest corner and at the southwest corner by a 5/8" rebar with IR Engineering, LTD, aluminum cap stamped "I. S. No. 10377".

COMMENCING AT THE NORTHWEST CORNER OF A PARCEL OF LAND AS RECORDED UNDER RECEPTION NUMBER 851962, SAID POINT ALSO BEING ON THE EAST LINE OF SAID OUTLOT 'D'; THENCE S00°05'20"W ALONG THE WEST LINE OF SAID PARCEL, A DISTANCE OF 33.38 FEET; THENCE S89°54'40"E, A DISTANCE OF 4.19 FEET TO THE POINT OF BEGINNING; THENCE S22°42'38"W A DISTANCE OF 69.74 FEET; THENCE S21°54'19"E A DISTANCE OF 7.79 FEET; THENCE S22°43'58"W A DISTANCE OF 72.53 FEET; THENCE S23°50'59"E A DISTANCE OF 43.80 FEET; THENCE S22°40'41"W A DISTANCE OF 48.81 FEET; THENCE S21°41'55"E A DISTANCE OF 14.29 FEET; THENCE S66°04'31"E A DISTANCE OF 55.58 FEET; THENCE S23°55'29"W A DISTANCE OF 9.00 FEET; THENCE S66°04'31"E A DISTANCE OF 32.83 FEET; THENCE S66°00'26"E A DISTANCE OF 50.07 FEET; THENCE S21°41'03"W A DISTANCE OF 64.29 FEET; THENCE S21°06'40"W A DISTANCE OF 49.82 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SOMERSET DRIVE; THENCE N63°30'00"W ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 20.43 FEET; THENCE N20°00'08"E A DISTANCE OF 19.83 FEET; THENCE N20°08'37"E A DISTANCE OF 31.51 FEET; THENCE N66°09'26"W A DISTANCE OF 29.92 FEET; THENCE N65°31'12"W A DISTANCE OF 46.59 FEET; THENCE N22°59'44"E A DISTANCE OF 35.25 FEET; THENCE N67°00'16"W A DISTANCE OF 42.75 FEET; THENCE S22°43'09"W A DISTANCE OF 42.04 FEET; THENCE S67°36'23"W A DISTANCE OF 26.91 FEET; THENCE N67°30'23"W A DISTANCE OF 50.89 FEET; THENCE N22°24'58"W A DISTANCE OF 24.08 FEET; THENCE N22°40'28"E A DISTANCE OF 62.71 FEET; THENCE N21°07'40"W A DISTANCE OF 35.87 FEET; THENCE N22°40'36"E A DISTANCE OF 33.44 FEET; THENCE N67°19'44"W A DISTANCE OF 46.54 FEET; THENCE N22°48'16"E A DISTANCE OF 126.47 FEET; THENCE S67°22'07"E A DISTANCE OF 32.62 FEET; THENCE N69°58'33"E A DISTANCE OF 14.50 FEET; THENCE N25°37'31"E A DISTANCE OF 38.50 FEET; THENCE N64°43'23"E A DISTANCE OF 16.31 FEET; THENCE S67°07'44"E A DISTANCE OF 54.98 FEET; THENCE N22°42'38"E A DISTANCE OF 8.48 FEET; THENCE S64°56'20"E A DISTANCE OF 0.78 FEET TO THE POINT OF BEGINNING.

CONTAINING 41,248 SQUARE FEET OR 0.9469 ACRES.

EXHIBIT C TO  
CONSOLIDATED, AMENDED AND RESTATED DECLARATION FOR SOMERSET ESTATES  
ARBITRATION PROCEDURES

1. All Claims subject to arbitration shall be decided by a single private party arbitrator to be appointed by the parties.
2. If the parties are unable to agree upon an arbitrator within thirty (30) days from the date of the Arbitration Notice, the presiding judge of the District Court in Boulder County shall appoint a qualified arbitrator upon application of a party.
3. No person shall serve as the arbitrator who may have any financial or personal interest in the result of the arbitration or any family, social or significant professional acquaintance with any other party to the arbitration. Any person designated as an arbitrator shall immediately disclose in writing to all parties any circumstance likely to affect the appearance of impartiality, including any bias or financial or personal interest in the outcome of the arbitration (“Arbitrator’s Disclosure”). If any party objects to the service of any arbitrator within fourteen (14) days after receipt of that Arbitrator’s Disclosure, such arbitrator shall be replaced in the same manner as provided in paragraph 2 above.
4. The arbitrator shall fix the date, time and place for the hearing. The arbitration proceedings shall be conducted in Boulder County, unless otherwise agreed by the parties.
5. Subject to the provisions of these procedures, the arbitration shall be conducted in accordance with rules and procedures determined by the arbitrator.
6. No formal discovery shall be conducted in the absence of an order of the arbitrator or express written agreement of the parties.
7. Unless directed by the arbitrator, there shall be no post-hearing briefs.
8. The arbitration award shall address each claim to be resolved in the arbitration, provide a summary of the reasons therefor and the relief granted, and be rendered promptly after the close of the hearing. The award shall be in writing and shall be signed by the arbitrator.
9. The arbitrator shall award the substantially prevailing party such party’s costs and expenses, including reasonable attorneys’ fees, all in accordance with Colorado law.